



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/589,585	06/07/2000	Jennifer Pearson	003801.P025	8996

7590 03/26/2004  
Sheryl Sue Holloway  
Blakely Sokoloff Taylor & Zafman LLP  
7th Floor  
12400 Wilshire Boulevard  
Los Angeles, CA 90025

EXAMINER

NGUYEN, MAIKHANH

ART UNIT PAPER NUMBER

2176

DATE MAILED: 03/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/589,585

Applicant(s)

PEARSON ET AL.

Examiner

Maikhanh Nguyen

Art Unit

2176

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 29 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-15 and 19-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 and 19-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>2-7</u> . | 6) <input type="checkbox"/> Other: _____  |

***DETAILED ACTION***

1. This action is responsive to communications: Election filed 12/29/2003 to the original application filed 06/07/2000; IDS filed 01/08/2002, 02/26/2002, 06/03/2002, 07/08/2002, 08/12/2002 and 02/03/2003.
2. Claims 1-15 and 19-24 are elected for examination. Claims 16-18 have been canceled. Claims 1, 13, and 19 are independent claims.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-11, 13, 15 and 19-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Levine et al. (U.S. 5,745,681 – filed 11/1996).

As to independent claim 13, Levine teaches a computer-readable medium having stored thereon executable instructions for causing a computer to perform a method for dynamically selecting images for a markup language document (*Abstract*) comprising:

- determining a number of images to display in the markup language document  
(col.2, lines 11-46);

Art Unit: 2176

- obtaining a set of random numbers corresponding to the number of images (*e.g., by selecting any one of items 56a-56f in Figs. 3-6 a set of images associated with the selected will be displayed to the user*);

- retrieving images from a group of images using the set of random numbers (*Fig. 2A and associated text*); and

Levine does not explicitly teach “placing the retrieved images in the document”. Levine, however, discloses “*a shopping page module at the server converts the cart list to a cart field, generates a new shopping page file, embeds the cart field in the new shopping page file and sends the new shopping page file to the browser*” (*Abstract*).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to apply the teachings of Levine to include placing the retrieved images in the document because it would have provide the capability for providing to the user with the web page including user selected items.

As to **dependent claim 15**, Levine teaches determining a location in the document for each of the retrieved images from an instruction embedded in the document (*adds the selected items to the shopping cart list; Abstract*).

As to **independent claim 1**, the rejection of independent claim 13 is incorporated herein in full. However, claim 1 further recite “encoding an instruction in the markup language document, the instruction identifying a utility program that dynamically selects an image for insertion into the document; invoking the utility program when the instruction is processed.”

Levine teaches encoding an instruction in the markup language document, the instruction identifying a utility program that dynamically selects an image for insertion into

Art Unit: 2176

the document; invoking the utility program when the instruction is processed (*Fig. 2D and associated text*).

As to dependent claim 2, Levine teaches the group of images comprises a gallery containing images available for display (*col.2, lines 30-40*).

As to dependent claim 3, Levine teaches choosing the images for the pool from a gallery containing images available for display using an administration tool (*col.2, lines 11-40*).

As to dependent claim 4, Levine teaches choosing the images for the pool comprises: obtaining filtering criteria; identifying an image from the gallery based on the filtering criteria; and adding the identified the identified image to the pool (*col.5, lines 23-43*).

As to dependent claim 5, Levine teaches examining information associated with the image against a set of standards; and discarding the image if the information does not meets the standards (*col.7, lines 34-45 & Fig.6*).

As to dependent claim 6, Levine teaches deleting an image from the pool (*col.7, lines 36-53/Fig.6, button 93*).

As to dependent claim 7, Levine teaches the markup language document is a web page and the instruction is a tag in a proprietary format (*e.g., the HTML shopping file; col.4, lines 35-41*).

As to dependent claim 8, Levine teaches the utility is invoked when the tag in the proprietary format is processed during a compile of the web page (*col.8, lines 20-65*).

Art Unit: 2176

As to dependent claim 9, Levine teaches the proprietary format comprises <widget identifier, number of images, display parameters> (e.g., *source code of a shopping page file in fig. 7A*).

As to dependent claim 10, Levine teaches the display parameters comprise a size parameter and a location parameter (e.g., *equa 580X35, Sunsoft in fig. 7A*).

As to dependent claim 11, Levine teaches the proprietary format comprises <widget identifier, category identifier, number of images, display parameters> (e.g., *source code of a shopping page file in fig. 7A*).

Independent claim 19, the rejection of independent claim 13 above is incorporated herein in full. However, claim 19 further recite “ a processing unit; and a memory”.

Levine teaches a processing unit (*CPU 23, Fig. 1*); and a memory (*memory 24; Fig. 1*).

As to dependent claim 20, Levine teaches the utility program causes the processing unit to place the selected images in a location defined in the instruction (*Fig.2B*).

As to dependent claim 21, Levine teaches the instruction specifies the number of images to display (*col.1, lines 59-67 & Fig.2A*).

As to dependent claim 22, Levine teaches an administration program that causes the processing unit to create a group of images from which to select the number of images (*col.1, line 59-col.2, line 9 & 2A-B*).

As to dependent claim 23, Levine teaches the computer system is a web server and the markup language document is a web page (*col.4, lines 32-67& Fig.2A*).

As to dependent claim 24, Levine teaches the web page contains images of items being auctioned on a web site hosted by the web server (*Figs. 3-6*).

4. Claims 12 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Levine et al.** in view of **Fields et al.** (U.S. 6,704,797 – filed 10/1999).

As to dependent claim 12, Levine does not explicitly teach “validating the pre-determined number of images against validation criteria; and substituting a different image for an image that fails the validation.”

Fields teaches validating the pre-determined number of images against validation criteria; and substituting a different image for an image that fails the validation (*Abstract & col.6, lines 1-26*).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Levine with Fields because Fields’ teaching would have provided the capability for limiting how an image is distributed from the server in response to client-specific data included in server requests received from web clients in the network.

As to dependent claim 14, Levine does not explicitly teach “validating the retrieved images against validation criteria; and retrieving a replacement image from the group of images if a retrieved image fails the validation.”

Fields teaches validating the retrieved images against validation criteria; and retrieving a replacement image from the group of images if a retrieved image fails the validation (*Abstract & col.6, lines 1-26*).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Levine with Fields because Fields’ teaching would have provided the capability for limiting how an image is distributed

Art Unit: 2176

from the server in response to client-specific data included in server requests received from web clients in the network.

***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Newman et al.	U.S Patent No. 6,085,229	issue dated: Jul. 4, 2000
Helfman	U.S Patent No. 6,119,135	issue dated: Sep. 12, 2000
Danneels et al.	U.S Patent No. 6,272,472	issue dated: Aug. 7, 2001
Angiulo et al.	U.S Patent No. 6,275,829	issue dated: Aug. 14, 2001

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Maikhanh Nguyen whose telephone number is (703) 306-0092. The examiner can normally be reached on Monday - Friday from 9:00am – 5:30 pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph H Feild can be reached on (703) 305-9792.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.



Art Unit: 2176

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Maikhanh Nguyen  
March 22, 2004

  
**JOSEPH FEILD**  
**SUPERVISORY PATENT EXAMINER**